

AMENDED IN ASSEMBLY MARCH 25, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 2023

Introduced by Assembly Member Saldana

February 17, 2010

An act to amend ~~Section 15152 of~~ *Sections 15620, 15621, 16401, and 16421 of*, and to add Chapter 8.5 (commencing with Section 15560) to Division 15 of, the Elections Code, relating to elections.

LEGISLATIVE COUNSEL'S DIGEST

AB 2023, as amended, Saldana. Election results.

Existing law requires that, after an election, each county conduct an official canvass of the ballots cast in the election and report the final results to the relevant governing board and the Secretary of State.

This bill would authorize the Secretary of State to establish a postcanvass risk-limiting audit pilot program in 5 or more voluntarily participating counties for the purpose of verifying the accuracy of election results. Under the program, a participating county would conduct an audit of one or more contests in each election after the tabulation of the unofficial final results, as defined, or after completion of the official canvass for the election. The bill would require that the audit be conducted in public view and by manual tally, and would further require the Secretary of State to report to the Legislature on or before March 1, 2012, on the effectiveness and efficiency of these audits.

~~Existing law requires the elections official of a county to conduct a semifinal official canvass of the results of an election immediately upon the close of the polls and to make the results of the balloting public. An elections official is not permitted to make public the results for a candidate or a ballot measure until all the polls have closed in that~~

county and every other county in which the candidate or ballot measure is being voted upon.

~~This bill would make nonsubstantive changes to those provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Chapter 8.5 (commencing with Section 15560)*
2 *is added to Division 15 of the Elections Code, to read:*

3
4 *CHAPTER 8.5. POSTCANVASS RISK-LIMITING AUDIT PILOT*
5 *PROGRAM*

6
7 15560. (a) *The Secretary of State is authorized to establish a*
8 *postcanvass risk-limiting audit pilot program in five or more*
9 *counties to improve the accuracy of, and public confidence in,*
10 *election results. The Secretary of State is encouraged to include*
11 *urban and rural counties; counties from northern, central, and*
12 *southern California; and counties with various different voting*
13 *systems.*

14 (b) *The pilot program described in subdivision (a) shall be*
15 *conducted as follows:*

16 (1) *During the year 2011, each county that chooses to*
17 *participate in the pilot program shall conduct a postcanvass*
18 *risk-limiting audit of one or more contests after each election in*
19 *that county.*

20 (2) *An elections official conducting an audit pursuant to this*
21 *section shall do all of the following:*

22 (A) *Provide at least a five-day public notice of the time and*
23 *place of the random selection of the audit units to be manually*
24 *tallied and of the time and place of the audit.*

25 (B) *Make available to the public a report of the vote tabulating*
26 *device results for the contest, including the results for each audit*
27 *unit in the contest, prior to the random selection of audit units to*
28 *be manually tallied and prior to the commencement of the audit.*

29 (C) *Conduct the audit upon tabulation of the unofficial final*
30 *results or upon completion of the official canvass for the election.*

1 (D) Conduct the audit in public view by hand without the use
2 of electronic scanning equipment using the tally procedures
3 established by Section 15360 for conducting a manual tally.

4 (3) On or before March 1, 2012, the Secretary of State shall
5 report to the Legislature on the effectiveness and efficiency of
6 postcanvass risk-limiting audits conducted pursuant to this section.
7 The report shall include an analysis of the efficiency of postcanvass
8 risk-limiting audits, including the costs of performing the audits,
9 as compared to the 1 percent manual tallies conducted in the same
10 election pursuant to Section 15360.

11 (c) An audit shall not be conducted pursuant to this section with
12 respect to a state or multijurisdictional contest unless all of the
13 counties involved in the contest choose to participate in the pilot
14 program authorized by this section.

15 (d) For purposes of this section, the following terms have the
16 following meanings:

17 (1) “Audit unit” means a precinct, a set of ballots, or a single
18 ballot. A precinct, a set of ballots, or a single ballot may be used
19 as an audit unit for purposes of this section only if all of the
20 following conditions are satisfied:

21 (A) The relevant vote tabulating device is able to produce a
22 report of the votes cast in the precinct, set of ballots, or single
23 ballot.

24 (B) The elections official is able to match the report described
25 in subparagraph (A) with the ballots corresponding to the report
26 for purposes of conducting an audit pursuant to this section.

27 (C) Each ballot is assigned to not more than one audit unit.

28 (2) “Contest” means an election for an office or for a measure.
29 “Contest” shall not include either of the following:

30 (A) An election for a political party central committee, as
31 provided in Division 7 (commencing with Section 7000).

32 (B) An advisory election, as provided in Section 9603.

33 (3) “Risk-limiting audit” means a manual tally employing a
34 statistical method that ensures a large, predetermined minimum
35 chance of requiring a full manual tally whenever a full manual
36 tally would show an electoral outcome that differs from the
37 outcome reported by the vote tabulating device for the audited
38 contest. A risk-limiting audit shall begin with a hand tally of the
39 votes in one or more audit units and shall continue to hand tally
40 votes in additional audit units until there is strong statistical

1 *evidence that the electoral outcome is correct. In the event that*
2 *counting additional audit units does not provide strong statistical*
3 *evidence that the electoral outcome is correct, the audit shall*
4 *continue until there has been a full manual tally to determine the*
5 *correct electoral outcome of the audited contest.*

6 (4) “Unofficial final results” means election results tabulated
7 pursuant to an official canvass conducted pursuant to Chapter 4
8 (commencing with Section 15300) but not yet reported to the
9 governing board or the Secretary of State pursuant to subdivision
10 (h) of Section 15302.

11 SEC. 2. Section 15620 of the Elections Code is amended to
12 read:

13 15620. Following completion of the official canvass and any
14 postcanvass risk-limiting audit conducted pursuant to Section
15 15560, any voter may, within five days thereafter, file with the
16 elections official responsible for conducting an election in the
17 county wherein the recount is sought a written request for a recount
18 of the votes cast for candidates for any office, for slates of
19 presidential electors, or for or against any measure, provided the
20 office, slate, or measure is not voted on statewide. The request
21 shall specify on behalf of which candidate, slate of electors, or
22 position on a measure (affirmative or negative) it is filed.

23 If an election is conducted in more than one county, the request
24 for the recount may be filed by any voter within five days,
25 beginning on the 29th day after the election, with the elections
26 official of, and the recount may be conducted within, any or all of
27 the affected counties.

28 For the purposes of this section, “completion of the canvass”
29 shall be presumed to be that time when the elections official signs
30 the certified statement of the results of the election except that, in
31 the case of a city election, if a city council canvasses the returns
32 itself and does not order the elections official to conduct the
33 canvass ~~as permitted by Section 10263~~, “completion of the
34 canvass” shall be presumed to be that time when the governing
35 body declares the persons elected or the measures approved or
36 defeated.

37 SEC. 3. Section 15621 of the Elections Code is amended to
38 read:

39 15621. Following completion of the official canvass and any
40 postcanvass risk-limiting audit conducted pursuant to Section

1 15560, any voter may, within five days beginning on the 29th day
2 after a statewide election, file with the Secretary of State a written
3 request for a recount of the votes cast for candidates for any
4 statewide office or for or against any measure voted on statewide.
5 The request shall specify in which county or counties the recount
6 is sought and shall specify on behalf of which candidate, slate of
7 electors, or position on a measure (affirmative or negative) it is
8 filed.

9 The Secretary of State shall forthwith send by registered mail
10 one copy of the request to the elections official of each county in
11 which a recount of the votes is sought.

12 All the other provisions of this article shall apply to recounts
13 conducted under this section.

14 *SEC. 4. Section 16401 of the Elections Code is amended to*
15 *read:*

16 16401. The contestant shall verify the statement of contest, as
17 provided by Section 446 of the Code of Civil Procedure, and shall
18 file it within the following times after the declaration of the result
19 of the election, *and after the declaration of the results of any*
20 *postcanvass risk-limiting audit conducted pursuant to Section*
21 *15560*, by the body canvassing the returns thereof:

22 (a) In cases other than cases of a tie, where the contest is brought
23 on any of the grounds mentioned in subdivision (c) of Section
24 16100, six months.

25 (b) In all cases of tie, 20 days.

26 (c) In cases involving presidential electors, 10 days.

27 (d) In all other cases, 30 days.

28 *SEC. 5. Section 16421 of the Elections Code is amended to*
29 *read:*

30 16421. The affidavit shall be filed in the office of the clerk of
31 the superior court having jurisdiction; within five days after *either*
32 *the completion of the official canvass or the completion of any*
33 *postcanvass risk-limiting audit conducted pursuant to Section*
34 *15560* by the ~~board of supervisors of the county~~ last making the
35 declaration. *In the case of an office for which candidates are*
36 *certified for the ballot by the Secretary of State, or in the case of*
37 *a statewide ballot measure, the superior court having jurisdiction*
38 *shall be the Superior Court for the County of Sacramento.*

39 ~~SECTION 1. Section 15152 of the Elections Code is amended~~
40 ~~to read:~~

1 ~~15152. Neither the elections official, any member of a precinct~~
2 ~~board, nor any other person shall count any votes, either for a ballot~~
3 ~~proposition or for a candidate, until the close of the polls in that~~
4 ~~county. After that time, the ballots for all candidates and ballot~~
5 ~~propositions voted upon solely within the county shall be counted~~
6 ~~and the results of the balloting made public. However, the results~~
7 ~~for any candidate or ballot proposition also voted upon in another~~
8 ~~county or counties shall not be made public until after all the polls~~
9 ~~in that county and the other county or counties have closed. This~~
10 ~~section applies regardless of whether the counting is done by~~
11 ~~manual tabulation or by a vote tabulating device.~~